



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

February 14, 1991

Mr. David J. Freeman
Executive Secretary
Texas Racing Commission
P. O. Box 12080
Austin, Texas 78711-2080

OR91-094

Dear Mr. Freeman:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 11510.

The Texas Racing Commission (commission hereinafter) received an open records request for "[a]ny complaints against Manor Downs from Jan. 1, 1990, to Jan. 9, 1991, relating to betting at the track, the track's horses, jockeys, trainers, management and owners." You sent for our inspection copies of two memoranda which you suggest are responsive to this request, one from the Stewards at Manor Downs regarding a complaint, the other from a commission investigator to the Director of Enforcement regarding the same complaint. We note that both of the memoranda recite the basic allegation of the complaint; we consider them to be responsive to the request.

You assert the memoranda are protected from required public disclosure by section 3(a)(1) of the Open Records Act, which excepts information deemed confidential by law. You rely on section 2.15 of the Texas Racing Act, article 179e, V.T.C.S., which provides:

All records of the commission that are not made confidential by other law are open to inspection by the public during regular office hours. The contents of the investigatory files of the commission, however, are not public records and are confidential except in a criminal proceeding or in a hearing conducted by the commission.

You contend the memoranda are part of the commission's investigatory files. The commission may investigate any alleged violation of the Texas Racing Act. 16 T.A.C. §323, 1(a). The protection for investigatory files applies to the

commission's investigatory efforts and work product. See Open Records Decision No. 522 (1989). Further, the purpose of section 2.15 is to prevent the individuals subject to investigation from obtaining information that would enable them to thwart the investigation. Id. We think these memoranda are the kind of information which, if released, could thwart a commission investigation. Furthermore, we believe the memoranda constitute the work product of the commission's investigation into the complaint. We, therefore, find that both memoranda are deemed confidential by section 2.15 of the Texas Racing Act. Consequently, they are excepted from required public disclosure by section 3(a)(1) of the Open Records Act as information deemed confidential by statutory law.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-094.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Opinion Committee

KHG/lcd

Ref.: ID# 11510

Enclosure: Open Records Decision No. 522

cc: Ms. Suzanne Halliburton
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